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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,506	03/28/2001	Dennis Sunga Fernandez	FERN-P001D	8534
22877	7590	10/13/2005	EXAMINER	
FERNANDEZ & ASSOCIATES LLP 1047 EL CAMINO REAL SUITE 201 MENLO PARK, CA 94025			VO, TUNG T	
		ART UNIT	PAPER NUMBER	
		2613		

DATE MAILED: 10/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/823,506	FERNANDEZ ET AL.	
	Examiner Tung Vo	Art Unit 2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 August 2005.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 20-37 is/are pending in the application.
- 4a) Of the above claim(s) 1-19 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 20-37 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 20, 31, and 33 filed 08/17/2005 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 20-21, 26, 28, and 31- 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over David et al. (US 5,544,649) in view of Lucas (US 5,594,410) and Englander (US 5,455,625).

Re claims 20, 31 and 33, David teaches integrated tele-medicine (20 of fig. 1) and home security system or patient remote location as home (10 of fig. 1) using fixed (22 of fig. 2) and mobile processor communication (120, 121 of fig. 7) for enabling remote medical care (30 and 40 of fig. 1) and residential surveillance (10 of fig. 1), the system comprising:

a care-giver processor (20, 30 and 40 of figs. 2 and 5) coupled to a packet-switched digital network (Note two-way interactive cable television, with its widespread network, provides a two-way communication network suitable for use in the patent (26, 12 of fig. 2)) the care-giver processor accessing a database including a representation of an identity and a location

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of at least one remote patient (Note at location 30, the physician may gain access by a second communications network 14 to access the patient's health data or audio-visual signal at the central surveillance station 20);

a mobile communications unit (120 of fig. 7) physically associated with a remote patient for monitoring at least one medical vital sign of security remote patient, the mobile communications unit communicating such monitored vital sign to the care-giver processor through the digital network ( Note one advantage of the system of FIG. 7 is that it is a wireless system (i.e., there are no wires from the transmitters 121 to the receivers 122) and thus permits the patient 16 a considerable amount of mobility; 120, 121, 122 of fig. 7); and

a first detector (22 of fig. 2) coupled to the digital network and selected by the care-giver processor for observing the remote patient (video signal) when such remote patient is determined by the care-giver processor to be located within a first observation range of the selected first detector (18, 22 of fig. 2; see also col. 16, lines 10-53 and col. 17, lines 20-63);

wherein the care-giver processor (20, 30 and 40 of fig. 1), by automatically corroborating the monitored vital sign (cols. 16 and 17) with the observed location of the remote patient, determines when an unsafe or unmonitored behavior or movement of the remote patient occurs or may likely occur, thereby enabling corrective action to provide appropriate care to the remote patient (col. 17, note Diagnostic Performance of Specific Tasks: the correct performance of specific tasks is important for the assessment of neuropsychological as well as motor abilities of the monitored subject. The examination begins during the initial conversation with the monitored subject. Any change in the spontaneous gestures of the body, arms and hands during speech as well as the fulfillment of nonspecific tasks are important signs of possible pathological events.

Moreover, the monitoring person can instruct the monitored subject to perform a series of simple tasks (as discussed below). The correct fulfillment of these tasks may be of utmost importance in the primary diagnosis of neurological abnormalities); the remote care giver processor (30 and 40 of fig. 1); the camera (22 of fig. 2) is monitoring the remote patient and indicating unauthorized intrusion into the remote patient residence, thereby enabling remote monitoring of patient medical condition integrated with home security surveillance (col. 20, lines 47-57, Note the camera 22 permits the monitoring of basic routine activities ( washing, dressing , etc.) , fluid intake, food in take, and non-medical emergency situations such as threats from the outside (burglars, etc.) and threads from self-inflicted problem (fire, gas, leakage, etc.)).

It is noted that David suggests the first detector for monitoring (detecting) fire, gas, leakage, etc. (col. 20, lines 49-53) but David does not particularly teach a fixed imaging array of detectors and secured screening to at least one of such array detectors being override (over-ridden) for emergency access as claimed.

However; Lucas teaches a fixed imaging array of detectors (2 of fig. 1, col. 4, lines 4 and 5) for monitoring (detecting) fire, or smoke, and secured screening (28 of fig. 1) to at least one of such array detectors being override (over-ridden) for emergency access (col. 4, lines 67 – col. 5, line 9).

Therefore, taking the teachings of David and Lucas as a whole, it would have been obvious to one of ordinary skill in the art to incorporate the fixed array of detectors (2 of fig. 1) and override circuit (28 of fig. 1) of Lucas into the integrated tele-medicine and home security system or patient remote location as home of David for the purpose of detecting activities of the remote

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patient and assisting for police, fire departments, medical personnel or other emergency personnel to easily access to the building and able to identify where the remote patient is located.

It is further noted that the combination of David and Lucas does not particularly teach at least one of array detectors comprising uncoupled decoy detector as claimed.

However, Englander teaches at least one of array detectors comprising uncoupled decoy detector (col. 1, lines 15-22; Note a non-functional empty enclosure such a unit)

Therefore, taking the combined teachings of David, Lucas, and Englander as a whole, it would have been obvious of one of ordinary skill in the art to incorporate the uncoupled decoy detector of Englander into the combined integrated tele-medicine and home security system of David and Lucas for purpose to get attention to a person near the uncoupled decoy detector.

Doing so would prevent a burglar, theft, intruder, or unauthorized person entering the remote patient home, building, office, or apartment.

Re claims 21, 32, and 34, David further teaches a second detector (10B, 18, 22 of fig. 2) coupled to the digital network and selected by the care-giver processor for observing the remote patient when such remote patient is determined by the care-giver processor to have moved and subsequently located within a second observation range (17 of fig. 2, note the patient is within the observation range) of the selected second detector.

Re claim 26, David further teaches an object representation of such remote patient comprises an object name, an object identifier, an object group, an object query, an object condition, an object status, an object location, an object time, an object error, or an object image, video, or audio broadcast signal (video image, 22 of fig. 2).

Re claim 28, David further teaches the remote patient is monitored temporarily using an extrapolated or last-stored positional or visual signal (86 of fig. 4).

4. Claims 22-23, 25, 27, and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable David et al. (US 5,544,649) in view of Lucas (US 5,594,410) and Englander (US 5,455,625) as applied to claim 20, and further in view of Kennedy, III et al. (US 6,301,480).

Re claims 22-23, 25, and 29-30, It is noted that the combination of David, Lucas, and Englander does not particularly teach or suggest a position signal being generated by the mobile communications unit coupled to the remote patient when such remote patient is moveable within an observable range; the mobile communications unit comprises an accelerometer; the observable range is modifiable according to a rule set; a portable identifier associated with such remote patient is used for communication therewith; the remote patient is authenticated according to a voice pattern, a finger-print pattern, a handwritten signature, or a magnetic or smart-card signal; an electronic file comprising a book, a greeting card, a news report, a sports report, a stock report, an artwork, a research database, a personal list, a recorded or live voice or music transmission, an electronic tool, or a commercial transaction is provided to the remote patient as claimed.

However, Kennedy further teaches a position (12 of fig. 1) signal being generated by the mobile communications unit coupled to the remote patient when such remote patient is moveable within an observable range; the mobile communications unit comprises an accelerometer; the observable range is modifiable according to a rule set (col. 3, lines 5-19); a portable identifier (12 of fig. 1) associated with such remote patient is used for communication therewith (fig. 7); the

remote patient is authenticated according to a voice pattern, a finger-print pattern, a handwritten signature, or a magnetic or smart-card signal; an electronic file comprising a book, a greeting card, a news report, a sports report, a stock report, an artwork, a research database, a personal list, a recorded or live voice or music transmission, an electronic tool, or a commercial transaction is provided to the remote patient (col. 1, lines 43-57; see also col. 4, lines 43-67).

Taking the teachings of David, Lucas, Englander, and Kennedy as a whole, it would have been obvious to one skill of ordinary skill in the art to incorporate the teachings (cols. 3 and 4) of Kennedy into the combined tele-medicine system of David, Lucas, and Englander to communicate between the remote patient and central station or other stations faster and more accuracy.

Doing so would provide the advantages of the system include the adaptation of the system to provide mobile units that are associated with cars, trucks, boats, barges, airplanes, cargo holders, persons or other mobile items such as ambulance vehicle that desire a selection of services; and these services include emergency services, roadside assistance, information services (e.g., directions, news and weather reports, financial quotes, etc.), or other as suggested by Kennedy.

5. Claims 24 and 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over David et al. (US 5,544,649) in view of Lucas (US 5,594,410) and Englander (US 5,455,625) as applied to claims 20, 31, and 33, and further in view of Ballantyne et al. (US 5,867,821).

Re claims 24 and 35-37, It is noted that the combination of David, Lucas, and Englander does not particularly teach or suggests the care-giver processor confirms the remote patient identity by processing a visual image of the remote patient using adaptive or neural learning

software to recognize such patient, thereby enabling health-care billing to tele-appropriate patient; and a software agent associated with such remote patient accesses a database as claimed.

However, Ballantyne discloses the care-giver processor (fig. 9B) confirms the remote patient identity by processing a visual image of the remote patient using adaptive or neural learning software to recognize such patient, thereby enabling health-care billing to tele-appropriate patient (see also fig. 9A-9C); and a software agent associated with such remote patient accesses a database (figs. 9B and 9C) see also col.1, line 65-col. 2, line63).

Taking the teachings of David, Lucas, Englander, and Ballantyne as a whole, it would have been obvious to one of ordinary skill in the art to incorporate the teachings of Ballantyne (cols. 1, line 65-col.2, line64) into the combined tele-medicine of David, Lucas, and Englander to easily confirm the identity (video image of the patient) of the patient.

Doing so would allow the tele-medicine to automatically generate and store the history of the patient so that the patient can view his or her own medical status.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung Vo whose telephone number is 571-272-7340. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on 571-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Tung Vo*  
Primary Examiner  
Art Unit 2613